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REIGN OF KAMEHAMEHA IV.--EIGHTH YEAR.

BIENNIAL REPORT
OF THE
MINISTER OF FOREIGN AFFAIRS
TO THE
LEGISLATURE OF 1862.

UNDER my duty to the King, and by His Majesty's command, I have the honor to report on his relations with other sovereigns and with their dominions.

It affords me great satisfaction to assure you that those relations are in the most satisfactory state.

I am directed by His Majesty to explain to you the objects of the important mission to Europe and to the United States, which it has pleased him, by and with the advice of his Privy Council, to confide to Sir John Bowring, Knight, whose eminence as a statesman, political economist and statist is well known to all the Sovereigns of Europe, with several of whom he is personally acquainted, and to the President of the United States. It is impossible that the King could have selected a fitter man to negotiate successfully with other sovereigns and rulers of nations in the interest of the Hawaiian Sovereign and people, and for the equal advantage of all the maritime and commercial nations of the world. In consideration of the honorable antecedents of Sir John, of his high rank and reputation, the King very wisely conferred upon him the highest rank and the most comprehen-

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sive powers that he could ; and has accredited him direct to the Sovereigns of Europe and President of the United States, with whom he is to discuss the extremely important questions committed to his care.

Although accredited to so many distinct Courts, it is not expected that Sir John will have to incur the expense of making long and tedious voyages, merely to present his credentials, but that, aided by the powerful influence of His Majesty the Emperor of the French, Sir John, as the Hawaiian Envoy Extraordinary and Minister Plenipotentiary, will be able to present his credentials, as such, through the ambassadors and ministers of other Powers resident in Paris, so as that these ambassadors and ministers may receive special powers and instructions to negotiate with him, in that capital, on the objects of his mission, which are not exclusive in regard to any one Power, but common and equally interesting to them all.

Yet it will occur to you all that it is impossible that Sir John can perform the duties which he has kindly and generously undertaken without a great increase of his personal expenses, and that an adequate provision for those expenses, at the very least, in honor and gratitude, must be made. The King and his Privy Council taking this just view, passed a resolution to that effect, pursuant to which, on the 31st January, 1861, I sent a credit to Sir John for one thousand pounds sterling, on my own agents, Messrs. Matheson & Co., of London, which from them received due honor.

From circumstances well known to some of you, it was not a little inconvenient for me to make that advance for the honor and service of our Sovereign, for what I need is money in this Kingdom, *not* in London; and therefore, and because the enterprises in which I am engaged are still more important to the State than to myself, I cannot doubt that the Honorable Representatives of the Hawaiian people (for whose permanent benefit the mission of Sir John Bowring was concerted and undertaken) will make such a special appropriation as will fully reimburse me.

The General Political Treaty with all nations was the grand object, and a well understood condition of the conclusion of the Treaty with France of the 29th October, 1857. Its main objects may be understood by referring to Articles Nos. 1 and 2 appended to the Protocol of that date, and by carefully perusing the autograph letter of the King, addressed to the Emperor himself, on the 3d of June, 1856, of which I am permitted to append copy marked No. 1.

I particularly request your attention to that letter. It has been pronounced by statesmen of high rank and capacity to be one of the most frank and honorable appeals that one sovereign ever made direct to another ; and it shows so much confidence in the great, enlightened and wise Potentate to whom it was addressed as to justify the hope entertained by the King that the Emperor will condescend to exert his influence, powerful with and respected by all nations, in furtherance of the objects of Sir John's mission.

Even before receiving his credentials, Sir John had the distinguished honor of a long personal interview with His Majesty, the results of which were extremely gratifying. It pleased God in His Providence soon afterwards to afflict Sir John with a long and dangerous illness, which has greatly retarded him in the discharge of the duties of his mission, the results of which I am not in a position at present to communicate.

I think it probable that important despatches from him and others of the King's foreign agents, and especially their accounts of disbursements under the 15th Article of the Order in Council of Kamehameha III., of 25th August, 1848, were lost in the ship *Polynesian*, which, with twelve mail bags on board, was burnt, in San Francisco, on the 3d of March last.

It has ever been my wish, as well as my practice, to report to the Legislature fully, and up to the latest possible date. With this intention I had delayed entering upon the subject of the King's foreign affairs till this day (1st May) ; but not having received by two mails, just arrived, the advices and accounts which I had hoped to receive, I must adopt my usual course, of adding a *supplement*, with such later intelligence as I may receive before the end of the session.

But I must not omit explaining to you the two important questions which, in his wisdom and confidence in the Emperor of the French, it has pleased our Sovereign to refer to the decision of His Imperial Majesty.

The first is, whether the decision of the majority of the Justices of His Majesty's Supreme Court—our last Court of Appeal—in regard to the latest of the two conflicting *wills* of the late naturalized Spaniard Don Jose Nadal, amounted to a “denial of justice,” under international law ; and the *second* is, virtually, whether in charging such denial of justice upon the King's Supreme Judges, the Commissioner of France had not in his official dispatches imputed to those Judges

motives and intentions, without any reason or proof whatever, derogatory to their well established character as just and impartial Judges, and, otherwise, indulged in language which the courtesy of diplomacy strictly forbids.

As to the *first* point, its solution by the Emperor will be all the more easy that the estate of Nadal being notoriously insolvent, there is nothing under either of the two contested wills for any one to inherit, and consequently no one has sustained material injury under either of said wills.

The important question is the second ; and upon that point the most clear illustrations and incontrovertible proofs have been furnished to Sir John Bowring and to Monsieur Vidal in Paris, so as to enable them to lay the facts fully before the Government of the Emperor.

When the results of the reference become known, it will be for the King to direct me as to how much of those illustrations of matters of facts (not confined to one foreign representative) I can lay before the Legislature, without prejudice to His Majesty's service, or offense to private feeling.

The object is not to *injure* any man, living or dead, but to place the relations of all foreign nations with this Kingdom upon that footing of mutual respect, confidence, and courtesy, which we have ever desired to establish and maintain equally with them all, and which eminently conduces to the prompt and friendly settlement of all the controversies which frequently arise, and, in the very nature of things, must ever not unfrequently arise between the best constituted and most civilized Governments of the world.

If, besides succeeding in the General Political Treaty, Sir John Bowring succeed in this further object, he will confer a great and lasting benefit upon the King's Government in all its Departments, for with the experience of seventeen years, I declare to you the fact, that of all the causes which have embarrassed, occupied the time of the King and of his Executive and Judicial officers, and obstructed the advance of the national prosperity, the greatest of all has been, and still continues to be, the premature and undue interference of foreign agents with our Judiciary and in our internal affairs, the discussion of abstract theories of no importance whatever, either to their own nations or to this Kingdom, and that of the *veriest trifles*, having no other gravity than the official rank of those who take them up.

No Government can desire their accredited agents so to abuse their

privileges as to pursue such a course in this Kingdom. All the nations of the world wish well to us ; and knowing the difficulties we have to contend with as a young nation, with a scanty revenue, they would rather see their agents help us onwards by putting their shoulder to the wheel, than retard our progress by placing before us all manner of stumbling blocks.

It was with the view of facilitating the cure of such an evil, with the free consent of all nations in friendly relations with this Kingdom, that I issued to all foreign diplomatic and consular agents the circulars of 3d August, 31st October, and 18th November last, of which I append copies, marked respectively Nos. 2, 3 and 4, as well as my old circular of 30th June, 1848, marked No. 4½.

In regard to the existing Consuls of the Kingdoms and States of Northern Europe, and of Chile and Peru, circulars to them might have been omitted, because they all discharge their functions with courtesy, carefully circumscribing themselves to their duties, under international law.

Ever since the lamented death of Mr. Nicholas, William L. Green, Esq., has discharged his duties as Acting Commissioner and Consul General of Her Britannic Majesty, to the entire satisfaction, so far as I know, of all British subjects, and eminently so to that of the King's Government. You may have seen in the *Polynesian* one case relating to a respectable British subject, (now absent) which Mr. Green had to handle diplomatically, and which shows how well he knows to be strong in logic without infringing the rules of diplomatic courtesy.

There is no official information as to who is to be his successor, but it is reported, through creditable sources, that Mr. Synge has been nominated by the Queen of Great Britain ; and if so, the very circumstance of his coming to us with a character well established as the head Clerk of the Consular Department of the Foreign Office, is a sufficient guarantee that he will attend to British interests in this Kingdom, without seeking to make " political capital " out of us, on which to form a character for himself, which he is known already to possess.

The King and his Government much regret the death, in Peru, on the 31st October, 1861, of General William Miller, H. B. M.'s Commissioner and Consul General for this Kingdom ; and they equally regret the death in this city, on the 29th of March, 1862, of Monsieur

Luis Emile Perrin, the Consul and Commissioner of His Majesty the Emperor of the French.

It has pleased the King to recognize as Acting Consul of France, Monsieur Charles de Varigny, whose fitness to discharge all the diplomatic and consular duties of the late M. Perrin no one in this capital, who knows M. De Varigny, where he has resided for seven years, can doubt.

With the Commissioner of the United States, the Honorable Colonel Thomas J. Dryer, the relations of the Department under my charge have uniformly been, and are now, of the most frank, courteous and satisfactory character.

The Proclamation of 26th August last, issued by the King, prohibiting hostilities within his waters, was previously concerted with the Commissioner and its objects, have been fully explained to the Government of the United States.

The treaty obligations of the King towards the United States are with that Republic as a *whole* ; he has no convention or compact with any section or fragment of that great nation, but, as an independent sovereign, his obligations to protect the life and property of all within his lawful jurisdiction are just as strong as those of any other not more independent but more powerful Sovereign. Destitute of forts and ships of war, he can only perform that duty towards friendly Powers involved in war by the proclamation of his neutral rights, in the manner which he has done, and which his predecessor, the late King Kamehameha III., did by his Proclamation of the 16th May, 1854, and by the Resolutions of the Privy Council of the 15th June and 17th July of the same year.

Of these Proclamations and Resolutions, I append copies, for they constitute our acquiescence in and adoption of the four important principles embodied in the solemn declaration agreed to by the Plenipotentiaries of Great Britain, Austria, France, Prussia, Russia, Sardinia and Turkey, at Paris, on the 16th April, 1856, and annexed to their Protocol No. 23. They are the basis also of our title to the benefit of another provision concurrent with that Declaration, namely, that where international differences arise, hostilities are not to be resorted to, until an attempt to settle such differences amicably, by arbitration, shall have failed. The great importance of that provision to the King's Government I need not point out to you. The events of 1843 and 1849, the like of which I hope will never again occur,

sufficiently prove the advantage of such a protecting rule, both as regards the honor of great nations and bare justice to ourselves.

Sir John Bowring and Monsieur Vidal have instructions upon this subject, on which I shall have more to say, when I hear from them further.

On the 3d of February, 1857, the Honorable David L. Gregg, then Commissioner of the United States, by order of His Excellency the President submitted to me a *memorandum*, inviting the Hawaiian Government to concur with that of the United States in only adopting the first principle, modified as follows, viz : “ Privateering is and remains abolished ; and the private property of the subjects or citizens of a belligerent, on the high seas, shall be exempted from seizure by public armed vessels of the other belligerent, except it be contraband.”

Although, as a moral and Christian Government, concurring in the view of the Government of the United States, that the same principle which prohibited the capture of private property by vessels armed on private account, should extend to vessels armed on public account, yet the late King having taken by his Proclamation of the 16th May, 1854, so decided a stand against privateering, our present Sovereign could not consistently adopt the modification proposed by the United States, yet His Majesty authorized me to reply to their Commissioner here in the following terms, viz : * * * “ In that memorandum (meaning that above referred to) after quoting and commenting upon the four Articles of the Declaration referred to, you state that the President of the United States invites the Hawaiian Government to enter into an arrangement for its adherence, with the United States, to the four principles of the Declaration of the Plenipotentiaries before named, provided the first of them is modified as above specified ; that it is for His Hawaiian Majesty to determine whether or not he approves the universal application, at sea as well as on land, of the doctrine that private property should be exempted from seizure in the operations of war ; that it is not reasonable to suppose that the United States will ever forego a resort to privateers, should they unfortunately become involved in a war with a commercial state, if the private property of the citizens or subjects of belligerent powers be left subject to capture on the ocean ; and that the solicitude of the President to maintain the most friendly relations with the Government of Hawaii, renders it important to

“ascertain, in advance, what will be its treatment of American pri-
 “vateers on the high seas, and in Hawaiian ports, in case the United
 “States should be at war with any other Power which has acceded to
 “the Declaration, and if the principles of the Proclamation of His
 “Hawaiian Majesty, and of the Resolution in Privy Council of 15th
 “June and July 17th, 1854, will be applied to the privateers, as well
 “as to the public armed vessels of the United States.

“The King and his Government greatly appreciate the desire of
 “the President of the United States, to prevent any possibility of a
 “misunderstanding between this Government and that of the United
 “States in the case which you so clearly and courteously put for their
 “consideration. No one knows better than you do that the Hawaiian
 “Government, for their own safety and for the equal good of all com-
 “mercial nations, have for years been contending for an engagement
 “by them all to respect the perfect neutrality of this Kingdom and of
 “its domain in all wars which may hereafter arise ; that that grand
 “principle is consecrated in the XVth Article of the Treaty be-
 “tween this Kingdom and the Kingdoms of Sweden and Norway of
 “the 1st July, 1852, and that every consideration of sound policy in-
 “duces them to adhere to that principle, and to those embodied in the
 “Declaration made by me, by authority of the King, on the 26th
 “March, 1855, of which copy was passed to you at the time.

“The Proclamation of the late King of the 16th May, 1854, pro-
 “hibiting all Hawaiian subjects and all who reside within Hawaiian
 “jurisdiction from engaging, either directly or indirectly, in priva-
 “teering, under the penalty of being treated and punished as pirates,
 “can have no force or application whatever to persons who are not
 “within the King’s jurisdiction, nor would it be consistent with neu-
 “trality, during war, to debar privateers of the United States, coming
 “within the King’s domain, or of any other belligerent States, duly
 “authorized by their own Government to act as armed vessels, while
 “hostilities are pending, from the privilege of asylum and rights of
 “hospitality, so long as such vessels might themselves respect the
 “neutrality of that domain and the late King’s Proclamation afore-
 “said, by not seeking to enlist Hawaiian subjects or foreigners who
 “reside under Hawaiian jurisdiction, on board of such privateers, or
 “otherwise committing the King’s Government to a breach of their
 “neutrality.

“The President and Government of the United States may confi-

“dently rely that such will be the policy of the King’s Government in regard to American privateers under the circumstances before mentioned ; and they confidently hope that the President and Government of the United States will require nothing beyond that.”

The despatch from which the foregoing is a quotation, is dated 8th April, 1857. It contained also the assurance that Chief Justice Lee, then alive, coincided with me in the belief that the amendment suggested by the President of the United States, was but a legitimate extension to vessels armed by the State, of the principle acknowledged to be humane and just, in regard to vessels armed by private citizens or subjects of such State, but nevertheless acting under its commission or authority.

Although this identity of *principle* is not to be questioned, yet there has ever been a wide difference in the *manner* in which officers of a regular navy, bearing the commission of their Sovereign, and having both his and their own character to support before the world, act in their captures during war, of private persons and property on the high seas, and the manner in which the commanders and officers of privateers commissioned and armed by individuals with the sole object of enriching themselves during war by the plunder of private property, and without any other authority from the State than that of “Letters of Marque,” act, in their captures, on the broad ocean.

The latter differ from *pirates* only in this—that while they in times of peace prey upon private property, without any warrant at all, or responsibility of any Government, privateers prey upon private property only during war, under the warrant of “Letters of Marque” and under the responsibility towards other Governments of that nation under whose flag they cruise.

But *privateering*, in all its aspects and consequences to unarmed and peaceful individuals, is so *immoral*, so *unchristian*, and so inhuman, that if the direct or indirect result of the existing civil war in the United States be its total abolition, it will be some compensation for the great calamity ; not only to the United States, but to the whole civilized world, which results from that much to be deprecated intestine war.

Future historians will record to the honor of this nation, that its Sovereign, on the 16th of May, 1856, prohibited all his subjects from engaging either directly or indirectly in privateering against the ship-

ping or commerce of any belligerent, under the penalty of being treated and punished as *pirates*.

I have entered at length into these particulars, because the principles adopted in Paris, as aforesaid, change the law of nations, in regard to privateering, only with those nations which adopt them, and because so long as such a great naval power as the United States does not adopt them, we have no security that privateers may not swarm in this ocean, and by hostile aggressions within the King's maritime jurisdiction, involve our Sovereign in the most serious responsibilities towards foreign Governments.

In connection with this subject, I consider it important to remind you of the limits and extent over which our Sovereign claims exclusive jurisdiction. Therefore, I enclose, marked No. 9, copy of my circular of the 16th December, 1856, to the Commissioners of Great Britain, France and of the United States.

Foreign Governments may hesitate to recognize it, so far as it is made to extend to our inter-island seas ; but if they admit the advantage which will result to them all, from considering this Kingdom, in its commanding geographical position, one of *neutrality, peace and refuge*, during all wars, (which advantage to me is very apparent) they may, for their own still greater benefit, recognize in the Hawaiian Sovereign a larger maritime jurisdiction than what he can claim as of inherent Sovereign right under international law.

In regard to the exercise of municipal authority within the King's "eminent domain," I refer to the official correspondence upon the subject which I had with the Commissioners of Great Britain, France and the United States, in November and December, 1857. I add copy, marked No. 10.

It requires no argument to prove that it is our interest, as well as our duty, so far as possible, to avoid disputes with all foreign nations; and it is a self-evident proposition that the clearer all our rights are made to appear, and the more fully they are recognized by all the leading Powers of Europe and of America, the less trouble we are likely to have in the foreign relations of this Kingdom.

If any one can render good service to the King in that important respect, it is Sir John Bowring, who has for many years taken a philanthropic interest in our prosperity, been well informed upon the subject of all our troubles, and has favored me with his opinion and his advice thereon. For that disinterested kindness, I owe great ob-

ligations to him, as I do to the Honorable Edward Everett, to His Excellency Mr. Clay, the late Minister of the United States, in Peru (whose opinions have been communicated to me through Mr. Eldredge) to the late Mr. Clayton and the late Mr. Webster, the former Secretary of State of the American Government, (whose opinions were made known to me by the late lamented Mr. Severance) and to other statesmen of high rank and position.

Although Sir John does not require to be instructed upon the subject of the rights inherent in every independent State, yet I thought it useful to send to him, officially, as I did to the late Commissioner of France, in French and in English, the extracts, which I enclose, marked No. 11, relating thereto, and to judicial jurisdiction, taken from the admirable Dictionary of the Administration of France by Monsieur Alfred Blanche, Counsellor of State and Secretary General of the Minister of State of the Emperor of the French, which that distinguished author and statesman did me the great honor of sending to me. He is not the only statesman of France who has manifested a benevolent interest for the King, for his rights as an independent Sovereign, and for the welfare of his people.

This is one of the respects in which the position of the King may be ameliorated, as stated in his Majesty's gracious speech, beyond anything provided for in his existing treaties ; and another is the removal, if possible, with the consent of all nations interested, of those high and unequal duties in their several tariffs, which contrast to our manifest disadvantage with our own lower, simple and perfectly equal Tariff. To that remarkable diversity and inequality the attention of Sir John Bowring was particularly directed. Table marked No. 12 was enclosed to Sir John for that purpose, on the 27th February, 1861, along with the notice *by authority* of the Minister of Finance, of the 25th June, 1859.

Upon all questions of commerce and of imposts thereon, Sir John is a very high authority ; some of the greatest Sovereigns in the world, justly considering him as such, have not disdained to confer with him, personally, upon financial policy, and have signally marked their high appreciation of his broad and enlightened views.

In a note appended to that Table you will observe a reference made to the Special Reciprocity Convention of 1855 with the United States, which, although it had been negotiated and concluded at the seat of

the American Government, the senate declined to ratify, for the reasons that have been fully explained in a former report.

The King's Government expected great advantages from, and were much disappointed by the *non-ratification* of that Convention, at the time, but the energies of the American people are so great, and the extent of their productive soil, along the western parts of the American continent, is so superior to our own, that with a population rapidly increasing on their part, and one on our part, (I lament to say) annually diminishing, it is extremely doubtful whether, if ratified, that Convention would not have operated to the detriment of our revenue.

To solve that important question, at my request, the Collector General is preparing a Table, which will show, on the one side, our imports from the ports of the United States of all articles named in that Convention as importable duty free ; and, on the other side, our exports to the ports of the United States of all articles named in the same Convention as exportable, duty free. The result, I have no doubt, will be as accurate and instructive as are the statistical tables usually prepared by that zealous and meritorious officer. The Table requires much time, labour and care to prepare it, going back to such a remote period, as I have suggested ; therefore, I cannot now append it ; but I expect to receive it during your present session.

With respect to the duties leviable on spirits, which with us has been a *vered*, but very badly understood question, since the visit of Captain A. du Petit Thouars in 1837, I append a Table, marked No. 13, containing extracts from the tariffs of all nations, shewing the rates of duty levied by them, which Table I had prepared for use in the discussions on the ratification of the Treaty with France, in 1858.

The tendency of a reduction in the amount of duty being everywhere to increase consumption, it is my belief that had as many whalers, and other ships, as visited our ports in 1858 continued to frequent them, since the new treaty with France came into operation, the \$3 per gallon duty would have been more productive to our revenue than was before the duty of \$5 per gallon.

That reduction from \$5 to \$3, so far as I know, has not led to any increase of drinking to excess with our native and foreign born population ; it has increased the consumption of gins, rums and whiskeys, but diminished the relative consumption of French brandies. Thus has been proved what I always contended for, namely, that our high duty on spirits was favorable to the consumption of French brandies,

a fact which, though it escaped the penetration of M. Dillon, Admiral de Tromlin and M. Perrin, did not escape the greater sagacity of the late lamented Mr. Nicolas, and of the former Commissioner of the United States, the Honorable James W. Borden. This will clearly appear by the official correspondence of January and February, 1859, of which copy marked No. 14 is appended.

Table No. 3, appended to my Report of 1860, showing the share in which all foreign nations had participated in direct importations of goods into this Kingdom from 1845 to 1859, both inclusive, I now submit to you completed, so as to include the importations of 1860 and 1861. It is appended marked No. 15. It is an instructive document, in so much as it shows, at one view, the relative value of the material interests which all foreign nations have had and now have in this Kingdom, and that in that respect the United States of America surpasses them all put together. Nevertheless, the Government of the United States never have claimed, nor do they now claim, any pre-eminence, political or commercial, over other nations; what they claim is only a strict equality, in all respects, with the most favored nation; and I hope I will never live to see the day when the King's Government will be so unjust to the United States and so blind to their own best and greatest interests, as to refuse to them and to their citizens that strict and perfect equality in all imaginable respects.

The King in his gracious speech informs you that he has directed his Ministers to make such recommendations only in their several Reports as will enable us to live within our income, without impairing the efficiency of the public service. So far as that direction applies to myself, I refer you to my letters to the Minister of Finance of the 17th of March last and 25th April, with its three enclosures, copies of which I append marked respectively Nos. 16, 17, 18, 19 and 20.

I further append a Table, marked No. 21, showing the expenditures of the Department of Foreign Affairs from the 31st March, 1860, to 31st March, 1862. In expectation of receiving by every mail the small yearly accounts of the King's agents, serving under the orders of the Department abroad, I had deferred making up the general account to the 24th April. The general balance in the Treasury books had to be closed on the 31st of March, and hence the differences that will be found between that balance and my aforesaid Table. But all the sums drawn for on the 24th April correspond to the biennial fiscal period, which expired on the 31st of March last, and ought

to be *re appropriated* ; and so also what appears as a *surplus* under the head of the King's foreign agents, for the collective amounts due to them on the 31st March, 1862, when their yearly accounts come forward, will be found to exceed very much that nominal surplus. I have reason to believe that many of their accounts were lost in the ship *Polynesian* on the 3d of March last, on board of which were twelve mail bags for Honolulu and China. I have written officially in all directions for duplicates ; but it is impossible they can arrive in time for the Legislature of this year.

I append, marked No. 22, copies in English and Hawaiian of the Order in Council of the 25th August, 1848, in the 15th Article of which you will find the obligation of the King's Government towards those agents. Much of the high opinion of the King's Government and of our success in by-gone years, in resisting demands, backed by naval forces, is to be ascribed to the loyal zeal, the high social standing, the influence, and the explanations opportunely rendered by those foreign agents, and not a few seeds, plants and roots, useful to our nascent agriculture, have been imported into the Kingdom, through their instrumentality. Therefore, the honor of the Crown, and the gratitude of the Hawaiian people, are interested in not saddling those gentlemen, who spend so much time for our benefit, with the loss of their actual cash disbursements, in the service of our Sovereign.

I am sure there is not one of you who will differ from me in opinion in that respect. There is not one Department of the King's Government, but what participates in the advantages of our Sovereign's full admission, as an equal, into the great family of independent Sovereigns, for on that depends your right, freely and without control to enact laws, and establish taxes and imposts for the good of the people ; the right of the King himself to enforce them upon all who live within his jurisdiction, and the right of his Supreme Judges to administer justice, in his Majesty's name, impartially to men of all ranks, nations and creeds, within that jurisdiction, according to the laws so enacted, to our Constitution, and to the King's Treaties with foreign nations as they (our Supreme Judges) may interpret them, and without any other responsibility than what they owe to God and their own consciences ; and to foreign governments, *only*, in the cases where, in regard to their subjects resident here, they may render judgments, *in time, in form and in substance*, so plainly and palpably unjust, as to

amount to what the highest authorities on international law particularly define to be a *denial of justice* under that law.

On the 27th November, 1855, and 12th December of the same year, the late British Commissioner and Consul General, on behalf of Henry Nathan, Esq., of London, complained to me of the decision rendered by the late lamented Chief Justice Lee (published in the *Polynesian* of 3d April, 1852) in the matter of the petition of Dona Carmen Escanilla de Rodriguez Vida, for the assignment of dower, in the estate of her deceased husband, Don Francisco Rodriguez Vida, alleging that the decision was not a right construction of Attorney General Ricord's law on dower, enacted in 1846, but to all intents and purposes, tantamount to a new law, having a retrospective effect, unjust and injurious to all parties who had invested their money in the purchase of leasehold property or lent it on mortgage itself, contrary to usage in this Kingdom, and contrary to the universal understanding in this community, even of the late King's highest officers.

If General Miller had been right in expressing those views, the decision of Judge Lee would have been a *denial of justice* under international law ; but he had too much respect for the Judge personally, and too much courtesy as a Diplomatist, to make officially that harsh charge ; he contented himself with stating that if his remonstrances, and the right of Mr. Nathan to \$2,000 lent to the late Mr. Vida, on the 16th of July, 1851, and to three per cent. interest per month thereon, were disregarded, he would transmit the whole case to the British Government ; and I, in my reply of 25th December, with the courtesy of which he had set me the example, without entering into a discussion of the merits or demerits of the decision, endeavored to show that, no exception having been taken to it, or appeal from it, having been made within the period fixed by the law of the land, by the counsel of Mr. Nathan, the means of local redress had not been exhausted, and, consequently, that the decision, whether right or wrong, could not be made an international question, consistently either with international law, or the precedents, in analagous cases, of the British Government itself. In illustration of the latter, in my said reply, I recalled to his memory the decision of the British Government, of 1843, in the case of Messrs. Skinner and Simpson, which was as follows, viz :

“ After maturely weighing the arguments on both sides, Her Majesty's Government are of opinion that whatever motives Messrs. Skin-

“ner and Simpson may have entertained of the impossibility of having
 “justice done them in the Courts of the Islands, they were bound in
 “the first instance to submit their case to the judgment of those
 “Courts ; and that having neglected or refused so to do, it is not
 “competent for them now to get rid of the effects of a decision adverse
 “to their interests.”

I further reminded him that the right Honorable Lord Palmerston himself, in his celebrated and much admired speech of 25th June, 1850, to the British Parliament, while vindicating himself from the charge of disregarding the decisions of foreign judges in the cases of British subjects, had declared the policy of the British Government in such cases to be as follows :

“I say, then, that our doctrine is, that in the first instance, redress
 “should be sought from the Courts of the country ; but in cases where
 “redress cannot be had, and these cases are many, to confine him”
 (a British subject) “to that protection only, would be to deprive him
 “of that protection which he is entitled to receive.”

Fearing that Lord Palmerston’s reservations in the latter clause might be understood in a greater latitude of application than his Lordship meant it should be, I further reminded General Miller of what I had said at page 335 of my official correspondence with M. Dillon, of 1849, which was as follows :

“As a general rule * * * should bear in mind that Her
 “Majesty’s Government are not less anxious than that of any other
 “country for the interest and prosperity of individuals who are enti-
 “tled to their protection ; but, in directing Her Majesty’s Consuls
 “abroad to support British interests, by every proper means, Her
 “Majesty’s Government must of necessity be guided by a dispassion-
 “ate and impartial consideration of the law of nations, and they do
 “not deem it expedient to direct or sanction demands on the part of
 British subjects, which not being founded in incontrovertible right,
 “must be abandoned, if rejected by the foreign Governments to which
 “they are made.”

Having made these quotations to the General, I proceeded to remark : “I believe I will be borne out by the most celebrated pub-
 “licists in the belief that the following are the three conditions of the
 “acquiescence of foreign Governments in the decisions given by the
 “Courts of other Governments, viz :

“1. That the tribunal be competent, both in regard to the matter

“ in litigation, and in virtue of express and tacit conventions between
“ the States.”

“ 2. That the foreign plaintiff have had the benefit of the forms
“ prescribed by the laws of the country where the case was tried, and
“ that equally with the subject he have had free access to the process
“ of appeal, in cases where those laws allow of an appeal to a superior
“ judge.

“ 3. That the case have been tried, substantially, according to
“ the laws of the country.”

I further added to H. B. M.'s Commissioner : “ The King's Gov-
“ ernment do not wish to exonerate themselves from any responsibility
“ incumbent upon them, under international law, but being physically
“ weak, they are naturally jealous of their right not to be made re-
“ sponsible in any case, or under any circumstances, wherein stronger
“ Governments would not be held responsible.”

Whether certain diplomatic and consular agents of great Christian
nations have kept within or exceeded that rule will be shown by the
“ Table of Consular Grievances,” and other irrefutable documents,
referred to below.

General Miller having reconsidered the subject, in view of that des-
patch, after sundry very courteous personal interviews, came to the
conclusion that in case where the counsel of Mr. Nathan had neg-
lected to appeal from Mr. Lee's decision, the British Government,
after the precedent in the case of Skinner and Simpson, were not
likely to disturb that decision, and therefore abandoned his intention
to refer the case to that Government.

With less foundation in fact, and certainly less courtesy in manner,
the late Commissioner of France, Monsieur Perrin, in November,
1858, accused the King's Chief Justice of a denial of Justice in the
case of the French sailor “ Francois le Flanchet ;” and in March,
1861, accused the majority of the Supreme Court of a denial of jus-
tice in the case of the will of *Don Jose Nadal*.

The reasons why I could not admit that there was a *denial of jus-
tice*, in either case, either under international law, or even the laws
of France, you will find stated by me, at length, in my despatch to
M. Perrin, No. 24½, of 31st December, 1858, and No. 22 of 7th Oc-
tober, 1861, of which I append copies, marked Nos. 23 and 24 re-
spectively.

These two documents, to which many others might be added, though

omitted for the sake of brevity, will illustrate the two points or *issues* at present under reference to His Majesty the Emperor of the French, and very clearly demonstrate the superior importance of the *second*, viz : the proper tone and style of diplomatic dispatches. In using the words "superior importance," I mean that the question under the will of Don Jose Nadal involves no material interest to any claimant, because the assets will leave no inheritance to any one ; but I do not mean to deny the great importance of the *principle* whether in the decision of the majority of the Justices of the Supreme Court there was a *denial of justice* or not. That is a question of international law, quite irrespective of the fact that as the estate will leave no inheritance to any one, there is no pecuniary interest to contend for on either side. But it is much to be regretted that, after the death of Nadal, the estate was considered to be one abounding in rights to *receive*, and without obligations to *pay*, and that his Lordship the good Catholic Bishop, deluded into that belief, was led to incur expenses, which in his honorable poverty he can ill afford. As an act of justice to his Lordship, I append, marked No. 25, copy of his letter to me of 6th March last, assuring me that no sordid motives of personal pecuniary interest moved him to assert the rights which he believed he possessed under that will, and in justice to my own convictions I add that I reposed the most implicit confidence in his assurances to that effect, and so declared them to my Sovereign and his Supreme Judges. No one, I believe, doubted them, for one moment, but the mere intention to devote to good and pious purposes an inheritance under a will does not constitute a right to that inheritance, if the will itself be not valid, according to law. In respect to *tone* and *courtesy* of language, and, let me add, christian charity, his Lordship's letter is altogether unobjectionable.

Copies of the Bishop's letter, and of documents No. 23 and 24, hereinbefore referred to, were forwarded to Sir John Bowring, along with M. Perrin's dispatches referred to in the two latter. He knows well how to use them, with diplomatic courtesy and, in every case, with strict regard to truth and to right under international law.

That you may the more fully understand the precise terms in which it pleased the King to refer to His Majesty the Emperor of the French, the two questions, hereinbefore referred to, in divers places, I append, marked No. 26, copy of my dispatch No. 20, of 23d September, 1861, to M. Perrin, (of which copy was inclosed to Sir John

Bowring in my dispatch No. 26 of the same date) also, marked No. 27, copy of my No. 18 to Mr. Perrin, to which No. 20 to him refers.

Great care was taken to forward early to Sir John translations of all M. Perrin's dispatches, setting forth his view of the questions in controversy, and in some cases copies of his original dispatches were remitted in French, so as that no possible mistranslation might operate to his prejudice in the consideration of the grievances which he alleged.

I further append, marked No. 28, a copy of my *memorandum* to Mr. Perrin of 7th April, 1859, objecting to certain rights of interference with the King's Government, beyond what any other nation claims, and beyond what international law allows to any nation. All these alleged rights I had before denied, with many arguments and quotations from the highest authorities on the laws of nations in my official correspondence of 1848 and 1849 with M. Dillon, and of 1851 with himself.

I was the more surprised that he should assert them, in the name of France, both for these reasons and because he was the first foreign political agent to whom I had applied to move his Government to take the lead in relieving us from controversies prematurely raised about the jurisdiction of our Courts, and the procedure of our tribunals, while the cases were yet pending before them. From its connection with other more recent attempts, by himself and others of the same kind, I add, marked No. 29, copy of my "observations" to him of 3d April, 1846.

The table of consular grievances referred to in those "observations" is enclosed, marked A.

I further append copy of my communications of 7th and 14th August, 1861, marked respectively No. 30 and 31, which will show you the ear-efforts that I made, by inviting him to a serious and amicable discussion on the principles of international law, to obviate every controversy in regard to the will of Don Jose Nadal. There would have been no diplomatic debate, either in that case, or in that of Francois le Flan-chet, had the first and second rules of official intercourse proposed in my circular of 31st October, 1861, been practiced with good faith on both sides.

I sincerely hope that the adoption of these, or of some similar rules, will be consented to by all Governments, for it cannot be either for their honor or their interest that their agents here should take up

cases and make reclamations, which not being founded in *incontrovertible right*, under the law of nations, have to be abandoned. Whenever that incontrovertible right is wanting, it is my official duty to the King to show it, whatever labor it may cost me ; and that I have not always been wrong in the view of foreign Governments may be inferred from the fact, that the United States Government did not enforce the large indemnities that were claimed for Messrs. Ladd & Co., those that were claimed for Sturges, the \$10,000 that were claimed in the case of John Wiley, the \$10,000 that were claimed in the case of Von Pfister, nor the \$5,000 that were claimed in the case of George Bailey ; neither did the British Government enforce the \$10,000 claimed for in the case of the land Pulaholaho, nor the £425 : 16 : 8 claimed for James Mac Lean ; nor have the French Government sought to enforce the pecuniary liabilities urged upon their Government in the case of Francois le Flanchet.

The aggregate amount of these claims, which I have had to resist, will astonish you. I shall append a schedule thereof, separately.

In all these and numerous other cases which I might mention, foreign agents have had a "labor of love" without fruit ; and I say, with all the respect that is due to them, that the experience of the past justifies a little more caution and moderation in taking up cases of what they call grievances against the Hawaiian Government.

All Governments do not graduate the title to promotion of their Diplomatic and Consular Agents serving abroad, by the amount of trouble and annoyance which they give to the Governments, under whose *Exequaturs* they act.

While, during the last eighteen years, this Government has not had to pay one dollar of the large sums that have been demanded of it, the Governments of Mexico, Peru, and other nations, have had to pay large sums. For this I claim no diplomatic credit ; the defense of a just cause may require labor, but is always certain ; and where claims upon the Government have been made in connexion with our Judiciary, as most of them have been, it is to the justice of their decisions, when impartially examined, that my success in resisting such claims is to be attributed, and not to any diplomatic skill of my own. All that I pretend to is to endeavor in all cases to adhere to truth, pursue the right, to be frank, honest and courteous, with a very scanty use of the acknowledged right of *retaliation* and *retort*.

Of this you will find a very signal proof in my reply of May, 1859, of which I annex copy marked No. 32, to numerous personalities in

which the late Commissioner of France, under his sense of the dignity and honor of his Government, thought it becoming in him to indulge, in his Despatch No. 1, of 8th January, 1859, in which he made the extraordinary claims for the right of intervention in our affairs by France and by himself, which I resisted, and which I had equally resisted with the late Commissioner of Great Britain and with the former Commissioners of the United States.

Nothing is more disagreeable to me than to have, under my sense of stern duty to the King, to oppose the demands made upon His Majesty's Government by the representatives of foreign Governments, whose sympathy with and benevolence towards this young and very interesting nation I never doubted; but I can say, with a clear conscience, that I never did so, in any case or with any such representative, except where I believed the demands made to be so unjust, so contrary to international law, and so inconsistent with the true policy of the government of such agent, that I would have equally resisted them had such demands been made by my own father; but I have never allowed such political differences to interfere with or impair my private feelings of friendship and respect to the parties.

I regret to say that it has not always been so with official men of high standing, with whom I have had to discuss political questions deeply affecting the rights of my Sovereign. I have been accused as being officially so "*anti-British*" as "to deserve to be sent to England in irons"—of being "*a Scotchman* turned of 40, with national prejudices to and antipathies against the Americans, altogether unconquerable"—and so anti-French as to be a "standing insult to France."

On the 25th March, 1858, I addressed to M. Perrin the letter of which I add copy marked No. 33. That and numerous other communications ought to have prevented him from misunderstanding the friendly feelings of the King's Government towards France and himself. * * * [Two and one-half pages of manuscript omitted.]

M. Perrin knew well that I never would have signed the Treaty of 29th October, 1857, had it not been for his promise to support in Paris the negotiation of the General Political Treaty, for which the Protocols provided, the adoption of which by France and all other nations would of necessity lead to a reform of all the King's existing Treaties, so as to conform them to its principles. Looking always forward to that great result, in the interest of this Kingdom and of all nations, my successive co-Plenipotentiaries in the protracted negotiation for a new Treaty, Chief Justice Allen and Prince Kamehameha, concurred with me in waiving our objections to several provisions in that Treaty,

which appear in the Protocols. Others who perhaps did not know that great object, and that we considered the new Treaty with France, and all pre-existing treaties, only as so many successive steps towards a grand result, securing the perfect independence and neutrality of this Kingdom forever, predicted many evils from those provisions, which, with the sole exception of the stipulation in regard to the French language, have happily not been realized.

In regard to that sole exception, namely, the obstruction to the prompt dispatch of official business in all stages, at all times and in all matters, from the necessity of interpretations and translations into the French language, from which M. Perrin has suffered equally with myself, with a view to abate that obstruction, in the interest of our official intercourse, and in that of French captains and merchants, in their transactions with our Custom House, I made the official offer to M. Perrin which you will find in my communication of 31st December, 1858, of which I append copy, marked No. 34

It is much to be regretted that M. Perrin did not exchange instructions with Prince Kamehameha and myself, as we offered to do on the 12th of August, 1857, and still more so that he did not ask for a perusal of my Report to the King, on the state of our relations and negotiations with France, referred to in my report to the Legislature of 1858. I append copies marked respectively No. 35 and 36. By perusing these documents, M. Perrin, who was a man of honorable intentions, would have been saved from the error of mistaking his own *suspensions* for *facts*, and of communicating them, as such, to his Government.

Although I had often to oppose both Mr. Perrin and General Miller, *resolutely*, in matters relating to the honor and rights of the Hawaiian Crown, yet for both I ever cherished a respect and friendly feeling, of which numerous proofs will be found in their several archives.

I regret that M. Perrin did not live to return to France, as was his intention, and to take with him a memorandum which I had prepared, in a friendly spirit, to undeceive him of some exceedingly unjust suspicions which I knew he entertained and had represented to his Government as facts.

In the way of introducing seeds, plants and roots useful to our agriculture, from Peru, Cuba, New South Wales, Java, the Philippine Islands, and Guatemala, the Department over which I have presided for seventeen years has always lent its willing co-operation, and so will continue to do.

Its expenses for stationery, &c., are somewhat increased by the Department of War, the duties of which are superadded to those of the Department of Foreign Affairs, and are performed without any extra expense to the King's Treasury.

It will be for the wisdom and patriotism of the Legislature to provide fully for all eventualities of the mission of Sir John Bowring, the failure of which would be a *calamity* to the State.

As I said before, if mails, now daily expected, or others arriving during the session of the Legislature, should bring me intelligence of importance, I shall add a supplement.

GOD PRESERVE THE KING.

R. C. WYLLIE.

FOREIGN OFFICE, 10th May, 1862.

P. S. On reflection, I consider it my official duty to contradict emphatically an absurd report in the American papers, current from Washington to New York and San Francisco, about the hypothecation of this Kingdom to Great Britain.

I can best do so by adding, marked No. 37, copy of my official despatch of 9th April, 1862, to the Honorable Colonel Thomas J. Dryer, Commissioner of the United States.

The charges against myself in some of the same papers I repel with scorn.

R. C. WYLLIE.

